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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/974,739	10/09/2001	Raymundo Saenz	DP-306444	7051

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EXAMINER

BUTLER, DOUGLAS C

ART UNIT PAPER NUMBER

3683

DATE MAILED: 09/18/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Applicati n No.

09/974,739

Applicant(s)

SAENZ ET AL.

Examiner

Douglas C. Butler

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 24 June 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 4-7 and 11-14 is/are pending in the application.
- 4a) Of the above claim(s) 4,6,7,11,13 and 14 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 5 and 12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 4-7 and 11-14 are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

1. An action on the merits of claims 5 and 12 considered readable on the elected Species D(Figure 8) is included in the office action with claims 1-3 and 8-10 having been canceled. Claims 4, 6-7, 11 and 13-14 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species.
2. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).
3. Applicant's traverse of the election requirement is acknowledged. The requirement is considered to be proper and is made final. The species are patentably distinct as claimed. A serious burden exists if the examiner were required to examine the entire application in view of the various embodiments, continued breadth and number of claims, numerous patents within the field of the invention, amount of time allotted to the examiner to examine the application, etc.
4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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5. Claims 5 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over instant Figures 1-3, admitted prior art, in view of newly cited Bedo et al(3857410) or newly cited Edlund(2723828).

Instant Figures 1-3, admitted prior art, discloses the invention substantially as claimed except for the specific configuration and mounting for the ball valve thereof. Each of the secondary references to Bedo et al(3857410) and Edlund(2723828) teaches the specific connector between a shaft and valve. See Figures 1 and 5 of Bedo et al with cylindrical section 110 with angled surfaces. See Figures 1-4 of Edlund with cylindrical section 3 and angled surfaces.

It would have been obvious at the time the invention was made to one having ordinary skill in the art to which the invention pertains to modify the ball valve arrangement of instant Figures 1-3, admitted prior art, to be partially spherical with cylindrical/angled portions re instant claims 5, 12 and with a reduced footprint mounting section for connection to a rod or stem as taught by each of the secondary references to Bedo et al(3857410) and Edlund(2723828) since such modification involves replacing one well known type of ball valve and manner of connection of the ball valve to its associated rod with an equivalent type of ball valve and manner of connection of the ball valve to its associated rod. The assemblies operate in substantially the same manner with substantially the same effect.

The method of claim 12 is encompassed by the above modified structure.


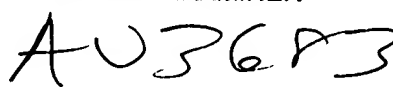
6. Applicant's arguments with respect to claims 5 and 12 have been considered but are moot in view of the new ground(s) of rejection.

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7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Exmr. Butler whose telephone number is (703) 308-2575. The examiner is normally in the USPTO Monday-Friday from 5:30 a.m. to 2:00p.m. Although the examiner may not always be present in his office to immediately answer the phone when called, the examiner will make every effort to return the call as soon as possible. If the examiner does not answer his phone, the examiner suggests that a brief message be recorded on the examiner's voice mail machine when necessary and appropriate. The examiner normally checks recorded phone calls at least once a day unless on leave.

The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9326.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

  
DOUGLAS C. BUTLER  
PRIMARY EXAMINER  


9/16/03